IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 15593 of 2007(F)

PETITIONERS:

---

1. R.VIJAYACHANDRAN, PRESIDENT, KOLLAM MOTOR TRANSPORT AND AUTOMOBILES ENGINEERING WORKERS CO-OPERATIVE SOCIETY LTD.NO.Q.1199, KOLLAM - 691 001.

2. KOLLAM MOTOR TRANSPORT AND AUTOMOBILES ENGINEERING WORKERS CO-OPERATIVE SOCIETY LTD.NO.Q. 1199, KOLLAM, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, CO-OPERATION DEPARTMENT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOLLAM.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

4. THE ADDITIONAL REGISTRAR(CONSUMER), OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. P.N. SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No.15593 of 2007

- -

Dated this the 28th day of May, 2007

JUDGMENT

Case of the petitioners is as follows:

First petitioner is the President of the Managing Committee of the second petitioner. The last election was held on 12.1.2005. The Managing Committee elected is entitled to continue till 12.1.2008. When there was a change of Government in 2006 at the instance of the political party, the second respondent commenced proceedings by issuing Ext.P3 notice to supersede the Managing Committee of the Society. The allegation in Ext.P3 notice is that there was no election at all in the Society on 12.1.2005. This was challenged before this court. Ext.P4 is the judgment. In Ext.P4 this court took the view that the second respondent should hear in detail all concerned as per the Act and the Rules. It was further directed that the second respondent will hear both sides and opportunity will be given to the writ petitioners to produce all the documents and take a decision depending upon the materials produced before him. In fact there was another writ petition

filed and the writ petitioner in the said case was also apparently given an order in his favour. The matter was carried in appeal and in Ext.P5 judgment this court took the view that another officer should hear the parties and pass appropriate orders in accordance with law. It was further directed that petitioners can produce all documents before that officer, who would take note of the same and decide the matter in accordance with law. Prayers in the writ petition are to direct the fourth respondent to afford the petitioners an opportunity of hearing including an opportunity to produce documents and examine witnesses in the proceedings commenced against the petitioners as per Ext.P3 notice and to command the respondents to refrain from implementing the order, if any, passed against the petitioners in the proceedings commenced against them as per Ext.P3 notice without communicating the same to the petitioners. When this matter came up, learned Government Pleader sought time to get instructions. Even though he has submitted that an order is passed, he would submit that notices were infact sent to the petitioners, but they were returned unserved. According to the learned Senior counsel for the petitioners notices were

not sent in the correct address. It is the case of the senior counsel that notices were deliberately sent in the incorrect address.

2. Heard Government Pleader also. He would submit that a hearing will be conducted and the proceedings will be completed as directed in Exts.P4 and P5 judgments.

Accordingly the writ petition is disposed of as follows:

The petitioners will appear before the fourth respondent on 2.6.2007 and it will be open to them to produce all documents and other evidence as directed in Exts.P4 and P5 judgments.

(K.M. JOSEPH, JUDGE)

sb